

same manner as a transcribed deposition. The videotape, if admitted in evidence, will be played during the hearing and transcribed into the record by the reporter.

(g) The Administrative Law Judge rules on the admissibility of the deposition or any part thereof and on any objections.

§ 5.555 Treatises.

(a) Treatises, periodicals, or pamphlets relating to nautical practices are admissible in evidence without the use of expert witnesses.

(b) The Administrative Law Judge evaluates such materials based on the facts and circumstances of the case. The materials may not be considered conclusive of an issue.

§ 5.557 Medical examination of respondent.

(a) In a hearing in which the physical or mental condition of the respondent is in controversy, the Administrative Law Judge may order the respondent to submit to a medical examination.

(b) An examination ordered by an Administrative Law Judge will be conducted at government expense by a physician designated by the Administrative Law Judge.

(c) If the respondent fails, or refuses, to submit to an ordered examination such failure is accorded due weight in determining the facts alleged in the specifications.

§ 5.559 Argument.

After all the evidence has been presented, the investigating officer and the respondent may present oral or written argument.

§ 5.561 Submission of proposed findings and conclusions.

The Administrative Law Judge affords the investigating officer and the respondent reasonable opportunity to submit proposed findings and conclusions with supporting reasons. If either desires to submit such matter, the Administrative Law Judge fixes the time within which it shall be filed. Failure to comply within the time fixed by the Administrative Law Judge shall be regarded as a waiver of the right.

§ 5.563 Administrative Law Judge's findings and conclusions.

(a) The Administrative Law Judge renders ultimate findings and conclusions.

(b) A separate conclusion is made by the Administrative Law Judge on each charge and specification. A specification may be found *not proved*, *proved in part*, or *proved*. A charge may be found *not proved* or *proved*.

(c) The testimony and exhibits presented, together with all papers, requests, and rulings filed in the proceedings are the exclusive basis for the issuance of the Administrative Law Judge's findings and conclusions.

§ 5.565 Submission of prior record and evidence in aggravation or mitigation.

(a) Except as provided in § 5.547 and § 5.549, the prior record of the respondent may not be disclosed to the Administrative Law Judge until after conclusions have been made as to each charge and specification, and then only if at least one charge has been found proved. The prior record must include only information concerning the respondent and is limited to the following items less than 10 years old:

(1) Written warnings issued by Coast Guard investigating officers and accepted by the respondent;

(2) Final agency action on Coast Guard suspension and revocation hearings wherein one or more charges was found proved;

(3) Voluntary surrender agreements entered into by the respondent;

(4) Any final judgments of conviction in State or Federal courts;

(5) Final agency action resulting in civil penalties or warnings being imposed against the respondent in proceedings administered by the Coast Guard under 33 CFR 1.07; and,

(6) Any official commendatory information concerning the respondent of which the investigating officer is aware.

(b) The investigating officer may offer evidence and argument in aggravation of the charge or charges found proved.

(c) The respondent is allowed to comment on or offer evidence regarding prior maritime service including the